

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

COCN No.832 of 2005

Date of decision: October 24, 2006.

Sheel Kaur

...**Petitioner(s)**

v.

Rattandeep Singh

...**Respondent(s)**

Present: Shri BBS Sobti, Advocate for the petitioner.

Shri Amar Vivek, Advocate for the respondent.

Surya Kant, J. (Oral)

The father of the respondent availed some loan facilities from the State Bank of India and mortgaged the house belonging to his mother, namely, the petitioner herein, as a security for the said loan amount.

It appears that the petitioner got lodged FIR No.15 dated 23.1.2004, under section 468/471 IPC, at Police Station Model Town, Ludhiana alleging, inter-alia, that her son, namely, the father of the respondent, forcibly abducted her and procured her signatures on the mortgage deed. It is stated that some allegations against the respondent have also been made in the above stated FIR.

The respondent applied for the grant of pre-arrest bail by filing a petition under section 438 Cr.P.C., bearing Crl. Misc. No.9529-M of 2004. It was stated on his behalf that, “the petitioner shall discharge the entire liability of the State Bank of India, Phase VII, Mohali at the earliest, preferably within six months”. Upon this statement, the petitioner, who,

being the complainant, was present in court, also made a concessional statement that if the petitioner would deposit the entire loan amount, she shall not pursue the FIR in question and shall withdraw the same.

The above said bail application was thereafter taken up for hearing on August 16, 2004 and again on November 5, 2004, when an undertaking was given on behalf of the petitioner that if one month's time is given to him, the entire remaining amount shall be paid by him to the Bank. His petition for the grant of pre-arrest bail was finally disposed of by this court on May 2, 2005 by a self-speaking order wherein no such undertaking, however, has been given or incorporated.

Alleging that despite giving undertaking before this Court, as noticed above, the respondent has failed to discharge the loan liability of the Bank and as a result thereof the house owned by the petitioner still continues to be mortgaged with the Bank, this contempt petition has been filed.

In response to the show cause notice, the respondent has filed an affidavit. It is stated that the father of the respondent, who took the loan from the Bank and mortgaged the house of the petitioner, has since died and the petitioner has thereafter paid a sum of Rs.35 lacs to the Bank. The recovery proceedings initiated by the Bank are pending consideration before the Debts Recovery Tribunal as, according to the respondent, he is seriously disputing the total liability sought to be fastened upon him by the Bank.

Having regard to the fact that the recovery proceedings initiated by the Bank are yet to be adjudicated and as such final liability of the respondent and/or other borrowers is yet to be determined by the court of competent jurisdiction, this petition is disposed of with liberty to the petitioner to initiate appropriate action against the respondent and/or other

persons after the final determination of the loan amount and if she finds that notwithstanding the determination thereof, the respondent or other persons, if any, who are liable to discharge the loan amount, are not deliberately doing so and thus, are causing obstruction in the enjoyment of her property.

Disposed of.

Rule discharged.

October 24, 2006.
kadyan

[**Surya Kant**]
Judge